

PROFESSIONALISM'S SECOND WAVE: A SAMPLING OF ISSUES ARISING WITHIN LEGAL EDUCATION

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AMERICAN law schools possess dual identities as graduate schools and professional schools.¹ This creative synthesis has helped American legal education become preeminent in the world. Our graduate school identity has enabled faculties to become communities of scholars; encouraged research and teaching informed by knowledge acquired at the boundaries of disciplines; stimulated curricula to embrace context as well as content in the study of law; and challenged students with active learning that includes inquiry, reflection, and critical thinking. Our professional school identity has beckoned faculties toward scholarship and service that improve the law and the performance of legal institutions; anchored our curricula in a body of knowledge defining the learned lawyer; and connected our academic enterprise to a public responsibility for adequately preparing students to serve, to seek justice, and to safeguard the rule of law.

But from our duality can spring tension as well as synthesis. With respect to faculty scholarship, Judge Harry Edwards in 1992 provocatively called attention to a “growing disjuncture” between theoretical discourse in the academy and the practical needs of the legal profession and the judiciary.² Indeed, since Judge Edwards’ article appeared, empirical research has revealed that academic writing in law reviews is being cited with dwindling frequency by federal courts and state supreme courts in their law-applying and law-shaping functions.³ With respect to law school teaching, the *MacCrate Report*, also written in 1992, noted that professional skills and values typically have received inadequate attention in law school (a juncture along the “legal education continuum”).⁴ The *MacCrate Report*

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1. See, e.g., *The Place of Skills in Legal Education: 1944 Report of the Committee on Curriculum of the Association of American Law Schools*, 45 COL. L. REV. 345 (1945). This report contains the timeless declaration, presumably written by committee chair Karl Llewellyn, that “[t]echnique without ideals may be a menace, but ideals without technique are a mess . . .” *Id.* at 346.

2. Harry Edwards, *The Growing Disjuncture Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 2191, 2192 (1993). See also Judith Kaye, *One Judge’s View of Academic Law Review Writing*, 39 J. LEGAL EDUC. 313 (1989).

3. Michael McClintock, *The Declining Use of Legal Scholarship by Courts: An Empirical Study*, 51 OKLA. L. REV. 659 (1998).

4. AMERICAN BAR ASSOCIATION, AN EDUCATIONAL CONTINUUM—REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992) [hereinafter *MACCRATE REPORT*]. The MacCrate Report notably added the subject of values instruction to an already well-established literature of discontent with the academy’s perceived failure to teach lawyering skills and awareness of client needs. See, e.g., SECTION OF LEGAL EDUC. AND ADMISSIONS TO THE BAR, ABA, REPORT AND RECOMMENDATIONS OF THE TASK FORCE ON LAWYER COMPETENCY: THE ROLE OF THE

echoed a concern earlier expressed by the ABA Commission on Professionalism⁵—and other writers have reinforced both reports—urging law schools to inculcate a greater sense of special calling and civic duty among future lawyers.⁶ The result has been the emergence of a new trilogy of legal education—doctrine, skills, and values—adding complexity to the already dynamic relationship between the graduate and professional dimensions of the American law school.⁷

Receiving less attention than these issues of scholarship and teaching, but gathering force in recent years, have been issues primarily relating to the culture of law schools. This “second wave” of issues arises largely from the institutional policies students encounter, and the personal behaviors they see, in the law school community. Such issues cannot be catalogued neatly, just as professionalism cannot be defined neatly; neither can all culture-related issues be captured in this essay. Nonetheless, here is a sampling of issues, framed by illustrative scenarios:

Law School Admissions

An applicant with excellent credentials gains admission and enrolls. A month later, the director of student services receives an anonymous, detailed note stating that the student has several juvenile offense adjudications, an adult misdemeanor conviction, and a serious disciplinary action at his undergraduate institution—all for instances involving theft or fraudulent conduct. No such information appeared in the student’s law school application in response to relevant questions. The admissions director verifies the juvenile adjudications and misdemeanor conviction, but cannot obtain information from the undergraduate institution without a release under FERPA (Federal Family Educational Rights and Privacy Act). The student declines to provide the release. The director admonishes the student that he will have to provide a broad release someday as part of his application for admission to a state bar, and that a demonstrated misstatement on his law school application might bear adversely upon a determination of his character and fitness. The student says, “I don’t care. My mistakes are way back in the past. Besides, I’m just here for the degree anyway.”

LAW SCHOOLS (1979) (Roger Crampton, chair); Patricia Wald, *Teaching the Trade: An Appellate Judge’s View of Practice-Oriented Legal Education*, 36 J. LEGAL EDUC. 35 (1986).

5. AMERICAN BAR ASSOCIATION, “... IN THE SPIRIT OF PUBLIC SERVICE”: A BLUEPRINT FOR THE REKINDLING OF LAWYER PROFESSIONALISM (1986) [hereinafter ABA PROFESSIONALISM COMMISSION REPORT].

6. See, e.g., ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* (1993); Jerome Shestack, President’s Message, *Defining Our Calling*, A.B.A. J., Sept. 1997, at 8. In a similar vein, the ABA Model Rules of Professional Conduct for Lawyers have been amended to emphasize the roles of lawyers as officers of the legal system and as public citizens with special responsibilities for the quality of justice, vis-à-vis their role as representatives of clients. See, e.g., MODEL RULES OF PROF’L CONDUCT R. 1.6 (confidentiality and its exceptions); R. 1.13 (duties of the lawyer for an organization) (2004) [hereinafter MODEL RULES].

7. Professionalism is now becoming an integral part of legal education in other countries as well. See, e.g., James R. Maxeiner & Keiichi Yamanaka, *The New Japanese Law Schools: Putting the Professional into Legal Education*, 13 PAC. RIM L. & POL’Y J. 303 (2004).

In this situation the law school faces a test of how seriously it takes the professional “gate-keeping” function and its commitment to the professional value of truth-telling. A graduate school might hesitate to take action against this student if it determined that he posed no current threat to others in the university. But should a law school, as a professional school, acquiesce in the continued enrollment of a student who has engaged in past misconduct that would be serious if committed by a lawyer and who has exhibited a present lack of candor and cooperation? Should it make a difference that the student currently disclaims interest in eventually seeking admission to the bar? Should (and could) the law school have incorporated a FERPA release into its application form? For that matter, should the law school also have incorporated a “continuing interrogatory” into the application, requiring the applicant to disclose any relevant further information or events arising after enrollment?⁸ These are questions a school concerned about its professional identity would address. If the law school in this scenario has not addressed these questions, and, in any event, if it does not expel this uncooperative student, the school will be sending to the student—and perhaps to others with knowledge of the facts—an unfortunate message about the values of the legal profession.⁹

Student Services

A law school's career services director posts notices of job opportunities and arranges on-campus interviews with all prospective employers who provide the required information and sign a statement of nondiscrimination. A faculty member observes one such posting and tells the director that the law firm in question has been sanctioned repeatedly for serious discovery abuses and lack of candor to tribunals. Several students are preparing resumes and cover letters for submission to the firm. Should the director warn the students or even try to steer them toward more ethical employers?

Although one would hope otherwise, some career services directors might find this scenario to pose a hard choice. They are accustomed to providing the broadest possible linkage between students and employers, and they are acutely aware that their productivity is measured by the National Association of Law Placement data on numbers and percentages of students who find jobs. Even though many directors these days are law graduates, they seldom make—or undertake sufficient research to make—judgments about an employer’s commitment to ethics and professionalism. Yet they know how to interpret Martindale-Hubbell ratings (or the lack of them) as well as other ratings, and they understand both the uses and the limits of such ratings. They also know how to conduct research—or help students

8. See generally Barry Vickrey, *Are We Gatekeepers?*, 34 U. TOL. L. REV. 179 (2002).

9. Medical schools reportedly are more aggressive than law schools in excluding or expelling students based upon nonacademic misconduct. See Linda McGuire, *Lawyering or Lying? When Law School Applicants Hide Their Criminal Histories and Other Misconduct*, 45 S. TEX. L. REV. 709, 730 n.56 (2004). Are there sound conceptual, as opposed to cultural, reasons why law schools have acted differently?

do the research—on publicly reported professional discipline and malpractice claims.

Ironically, all law schools provide formal instruction in professional responsibility, and many combine the anchor “P.R.” course with pervasive coverage of ethical issues throughout the curriculum; but despite these investments in ethical lawyering, the schools may evince a laissez-faire approach to career counseling that allows students to drift toward employment where they may be exposed to bad role models and later find their careers tainted. Of course, no one would suggest interfering with a prospective employer’s access to placement services based only on rumor or speculation; but where definitive information may be available, why would law schools *not* actively help their students look for it and interpret it?

Marketing the Law School

A national magazine publishes rankings of law schools, based partly upon factual information but largely upon mail-in reputational surveys. From year to year, a law school has furnished factual information to the magazine upon request; but the dean, convinced that the ranking system is flawed and misleading, has declined to participate in the mail-in survey. She has joined her counterparts throughout the country in signing a yearly “deans’ letter” warning prospective students against reliance upon these rankings. This year the law school has jumped to a higher ranking than it received the previous year. An excited director of admissions wants to publicize the new ranking, and the university marketing office has a glitzy news release ready to go upon the dean’s approval.

The issue here is not rankings *per se*, although their potential to mislead has been well documented and has been contrasted with *ratings* based on objective criteria and reported data.¹⁰ Nor is the dean’s dilemma governed by a right-or-wrong application of a set of rules, such as the Model Rules of Professional Conduct.¹¹ Rather, the matter is one of consistency in professional judgment. Should the dean adhere to an earlier determination that these particular rankings lack validity, or should she capitalize upon a perceived short-term advantage for the institution? Law students occasionally face analogous situations in which they must choose between a previously announced principle and a short-term opportunity. Moreover, when they become lawyers they will be asked to counsel clients who are struggling with such decisions. The dean’s choice between principle and expedience in the

10. See, e.g., AALS Deans’ Memorandum 98-10 (American Association of Law Schools, Feb. 17, 1998); Nancy B. Rapoport, *Ratings, Not Rankings: Why U.S. News & World Report Shouldn’t Want to Be Compared to Time and Newsweek—Or the New Yorker*, 60 OHIO ST. L.J. 1097 (1999).

11. The dean presumably is a lawyer. MODEL RULES R. 4.1 (“truthfulness in statements to others”) and 1.2(d) (forbidding a lawyer to become part of a fraud) do not govern the lawyer/dean’s conduct where there is no relationship, or prospective relationship, with a client. MODEL RULES R. 8.4(c) (prohibiting any conduct “involving ... deceit or misrepresentation”) arguably comes closer to the dilemma posed by the scenario; but the rule likely would be stretched beyond its purpose if it were deemed to cover an accurate reference to a third-party statement on a matter of opinion.

marketing scenario will send an important, broader message to the law school community.¹²

Professionalism and the Curriculum

Imagine a 1L student who is inspired by orientation speeches telling him he is embarking upon a new professional life—a break from his undergraduate or workplace past. The student then finds the change is not so dramatic after all. The first-year courses consist mostly of large-class instruction (and many second-year courses involve even larger classes). The Socratic dialogues, class debates, and problem-solving discussions are challenging, and they develop the student's capacity to "think like a lawyer." But, aside from the legal writing and research course, there is little opportunity for the student to deepen his learning experience by employing newly developed analytical skills, and applying newly acquired doctrinal knowledge, to tasks and simulations of work that lawyers really do. Neither is there a sustained demand upon the student to think introspectively about, and to articulate, the kind of lawyer and public citizen he will become.

The first year of law school cannot achieve every pedagogical goal of legal education, but professionalism receives exceedingly short shrift in the first-year experience of many American law students. Although we want lawyers to develop an ethos of being well prepared and closely attentive to every client's needs every day, the unspoken but clear message to students in their formative first year is that, in large classes, they can get away with a lack of preparation much of the time. Moreover, although we know about the iterative relationship between thought and expression, the size of our classes prevents us from engaging every first-year and upper-division student in sustained dialogues frequently enough, and intensively enough, to assure that all of them have really mastered the doctrinal content of each subject they are studying. Neither can we be assured that they have developed a thoughtful, critical perspective on the subject, or that they have reflected upon, and articulated, an appropriate analysis of the ethical dilemmas lawyers commonly face in that area of practice. It should come as no surprise, therefore, that many students who receive this kind of education have a poorly developed set of legal competencies, and a wobbly ethical gyroscope, when they enter the practice of law.

There are many strategies for addressing this old problem in legal education, but they all require a better faculty-student ratio than now exists (despite recent

12. The dean would do well to follow the advice of Professor Dale Whitman, past president of the Association of American Law Schools:

[N]o law school ought ever to brag about its ranking, or an improvement in its ranking; likewise, no law school should or needs ever to provide an "alibi" or rationalization for a drop in its ranking. Since neither sort of change is likely to have any basis in terms of real quality, it is intellectually dishonest to speak as though it does.

Dale Whitman, President's Message, *Doing the Right Thing*, AALS NEWSLETTER (American Association of Law Schools, Washington, D.C.), Apr. 2002, at 1, 4.

improvements) at most law schools. Legal education still abides faculty-student ratios that more closely resemble the ratios found in undergraduate education than those found in other graduate or professional disciplines. Until deans, law professors, lawyers, and judges—people who should know something about advocacy—turn their talents to bold, persistent, and resolute advocacy for marshalling the resources required for dramatically improved faculty-student ratios, the typical student experience in the first year, and during much of the remaining course of law study, will continue to suffer from the quality compromises compelled by large-group instruction.¹³

A bright light flickers at the margin, however. As implied by the MacCrate concept of a legal education “continuum,” there are teachers outside, as well as within, the academy. The best among these outside teachers can augment law school resources for instruction in professionalism. One narrow, cost-effective, and successful approach is to invite selected judges and lawyers to the law school for an intensive professionalism program on the first day of new law student orientation. The program makes two highly symbolic statements, quickly grasped and appreciated by the students: (a) professionalism is at the top of the agenda in starting a career, and (b) successful lawyers and judges care enough about the subject to donate a day (or more, with travel) of their time.¹⁴

To be sure, such a program is a modest step. Invariably, however, students who have participated in these programs report that they are impressed by the importance ascribed to ethics and professionalism by the judges and practitioners—thereby exploding negative stereotypes that some students may have carried with them. Invariably also, the judges and practitioners report how impressed they are with the sophistication, sensitive intuition, and thoughtful expressiveness of the students. In Idaho, for example, where this kind of program has been conducted during the

13. Better faculty-student ratios can produce two other, incidental benefits from a professionalism standpoint. First, they not only allow smaller sections of existing “core” courses but also are likely to allow at least some expansion of the curriculum in subject-matter specialties. The experience of lawyers in other countries, and of medical doctors here in the United States, appears to demonstrate a positive correlation between the development of specialties and the elevation of ethical levels of practice. See Adrian Evans & Clark D. Cunningham, *Specialty Certification as an Incentive for Increased Professionalism: Lessons from Other Disciplines and Countries*, 54 S.C. L. REV. 987, 994-96 (2003). Second, smaller group instruction nurtures a closer personal relationship between teacher and student, promoting what one commentator has described as a “fiduciary” sense of faculty responsibility. See Robert P. Schuwerk, *The Law Professor as Fiduciary: What Duties Do We Owe to Our Students*, 45 S. TEX. L. REV. 753, 783-88 (2004). To students, a faculty member’s fulfillment of such responsibility comes across as an object lesson in *caring* for others—an increasingly important element of professionalism. *Id.* See also Barry Sullivan & Ellen S. Podgor, *Respect, Responsibility, and the Virtue of Introspection: An Essay on Professionalism in the Law School Environment*, 15 NOTRE DAME J. L. ETHICS & PUB. POL’Y 117, 133-35 (2001).

14. In a typical program, two members of the profession—a judge and a practitioner, for example—will be assigned to conduct small-group discussions of ethics and professionalism with approximately six 1L students. Thus, an incoming class of 120 students might be broken into 20 discussion groups facilitated by a total of 40 volunteer members of the profession. The discussions focus on several carefully composed factual scenarios that the professionals previously have analyzed and discussed thoroughly among themselves in a faculty-guided colloquium prior to the orientation program. Plenary speakers such as appellate judges (who also may participate in the group discussions) can be used to articulate major themes in opening and closing the program.

past two years, every participating lawyer and judge has expressed a desire to return in the future, and the program has received the highest overall student rating among the orientation programs and activities. Similar reports have been received from other states, such as Kentucky and Georgia (where Emory's program has been so successful that law faculty reportedly are asking to be added to the discussion teams).

Professional Dimensions of a Professor's Work

A law professor, increasingly discontented with working conditions and compensation, has begun to treat colleagues and staff rudely. They prefer not to serve on committees with him, although they are pointedly aware that he is spending less time in the building than they are, and he is not carrying his share of the law school's service obligations. He occasionally cancels classes on short notice, or without notice. Students are reluctant to query him in class or to see him after class. Ironically, he is known as a generous grader. Most grades are A's and B's with a few C's. He reserves a grade of C- or below for abjectly deficient student work, explaining—in light of the law school's 2.0 cumulative grade point average requirement—that if every faculty member gave a C- to the same student, the student's law school career would be short. He makes few marks in examination booklets, and he does not use a model answer or a checklist.

In 1989, the Executive Committee of the Association of American Law Schools adopted (with amendment in 2003) a "Statement of Good Practices by Law Professors in the Discharge of Their Ethical and Professional Responsibilities."¹⁵ The Statement declares that "law professors typically are members of two professions [the bar and the academy] and thus should comply with the requirements and standards of each."¹⁶ The Statement, quoting the American Bar Association's Commission on Professionalism, goes on to say that because "the law school experience provides the student's first exposure to the profession and ... professors inevitably serve as important role models for students, ... the highest standards of ethics and professionalism should be adhered to within law schools."¹⁷ This statement, like other AALS statements of good practice on different topics, is neither a bylaw nor an executive regulation, so noncompliance does not appear to carry a specific consequence for the member school. But the statement does help the school identify professional expectations that faculty should strive collegially to fulfill.

Under the statement, a faculty member's professionalism includes serving as a role model to students, helping students "to recognize the responsibility of lawyers to advance individual and social justice," meeting classes as regularly scheduled (or rescheduling them at times reasonably convenient to students if possible), treating

15. ASSOCIATION OF AMERICAN LAW SCHOOLS, 2004 HANDBOOK 91-97 [hereinafter AALS HANDBOOK].

16. *Id.* at 91.

17. ABA PROFESSIONALISM COMMISSION REPORT, *supra* note 5, at 19.

students “with civility and respect and foster[ing] a stimulating and productive learning environment,” grading student work in a manner “consistent with standards recognized as legitimate within the university and the profession,” and giving each student an explanation for a grade if so requested.¹⁸ The professor also is expected to treat faculty colleagues and staff members “with civility and respect,” and to assume “a fair share” of the responsibilities of institutional governance and leadership, including “a responsibility to serve on faculty committees and to participate in faculty deliberations.”¹⁹

In this scenario, the professor has not fulfilled his professional obligations. His underperformance of committee service is not excused by his colleagues’ adverse reaction to a lack of civility, because the incivility is itself a violation of good practices. The professor’s relatively lenient and casual grading may represent another failure of professional obligation *if* the law school or the university has adopted standards for the evaluation of student work or the grading process. Many law faculties have adopted grading standards; some, however, provide for “norming” or “curving” grades around a median above 3.0, reflecting a grade distribution pattern previously thought to be characteristic of graduate schools.

At the same time, as every dean knows, bar examiners and supreme courts generally have not increased bar examination passage rates; to the contrary, most passage rates have remained stable, and some actually have declined.²⁰ Consequently, in some states there is a widening gap between law school graduation rates and first-time bar passage rates. This gap has prompted allegations of lawyer protectionism, together with academic critiques of bar examination writing and grading methodologies. Such critiques have been countered by questions from the bar as to whether law professors are evaluating student performance rigorously enough by reference to a standard of professional competence.²¹ Adding complexity to the controversy have been periodic fluctuations in law school admissions selectivity as well as changes in state bar examinations (for example, by adding the Multistate Performance Test); technical factors such as variations among states in the treatment and scaling of Multistate Bar Examination scores; uneven access by test-takers to bar review courses; and disparities of bar passage rates among demographic groups.

As this essay is being written, a joint working group of the ABA, AALS, National Conference of Bar Examiners, and Conference of Chief Justices is sponsoring a conference entitled “Examining the Landscape of Legal Education and Bar Admissions.” Hopefully it will sow the seeds for new studies and proposals to address the law school graduation/bar passage controversy.

18. AALS HANDBOOK, *supra* note 14, at 92.

19. *Id.* at 96.

20. Bar passage rates in each state since 1981 are available on the website of the National Council of Bar Examiners at <http://www.ncbex.org/stats.htm>.

21. Jay M. Feinman, *Law School Grading*, 65 UMKC L. REV. 647, 652 (1997).

Public Service

A student learns in her professional responsibility course that lawyers are expected, but not compelled, to provide at least 50 hours per year of donated legal service to persons of modest means or to public interest organizations.²² Many of her student colleagues, however, dismiss this expectation as political correctness—not something that a debt-burdened young lawyer ought to consider. As she looks around, she finds that the clinical and other volunteer programs at the law school do, indeed, seem to be dominated by students with a social agenda. She concludes that the idea of public service is neither broad-based nor truly universal.

This unfortunate outcome illustrates how the narrowness or breadth of public service programs at a law school can serve as an indicator of how seriously the school takes its responsibility to prepare students for the professional obligations they will be expected to fulfill. Indeed, the existence of a mandatory, and therefore universal, program is the clearest evidence that this responsibility resides at the heart of the law school. Although some might argue that public service should not be required in law school if it is not required and enforced in the profession, it is worth recalling that we require all students to take torts and constitutional law knowing that most students will not become tort or constitutional lawyers. We do so because we consider those subjects to be among the core learning experiences necessary to becoming a satisfactorily educated lawyer.

If the true meaning of a “profession” is (or should be), as Roscoe Pound said, “a group ... pursuing a learned art as a common calling in the spirit of a public service,”²³ then service is embedded in the very definition of a legal “profession” and, by implication, in the professional identity of a law school. By parity of reasoning, because *pro bono* service is a professional expectation under Model Rule 6.1, the experience of providing donated legal service should be treated as a core learning experience in the curriculum.

In his famous address, “The Opportunity in the Law,” delivered to the Harvard Ethical Society in 1905, Louis Brandeis argued that “whole training” in law school should include not only the development of reason and judgment but also the

22. Rule 6.1 of the ABA Model Rules of Professional Conduct provides as follows:

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

- (a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:
 - (1) persons of limited means or
 - (2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means

MODEL RULES R. 6.1.

23. JOHN S. DZIENKOWSKI, *PROFESSIONAL RESPONSIBILITY STANDARDS, RULES & STATUTES* 686 (2003) (quoting DEAN R. POUND, *THE LAWYER FROM ANTIQUITY TO MODERN TIMES* 5 (1953)).

inculcation of a commitment to the legal profession's public trust.²⁴ In words still timely today, he lamented that many lawyers had abused this trust while leaving the public "inadequately represented or wholly unrepresented."²⁵ More recently, AALS presidents have called for "professional education and professional values"²⁶ and for "restoring the notion that lawyers are society's conscience."²⁷ Advancing the same theme, the *MacCrate Report* has recommended that law schools, along with the organized bar, "make law students aware ... of the profession's expectation that all lawyers will fulfill their responsibilities to the public and support *pro bono* legal services for those who cannot afford a lawyer."²⁸

Universal public service programs enhance students' skills and amplify their knowledge of applied doctrine in areas related to their service activities. The service programs also enrich the law school culture of professionalism. They give every student a shared sense of belonging to a professional community, a sense of being part of something greater than oneself.²⁹ They profoundly demonstrate to every student that his or her law degree carries more meaning than either a graduate school diploma or a certificate of occupational training.

CONCLUSION

This sampling of "second wave" professionalism issues has depicted several contexts in which law students learn about their forthcoming professional obligations from sources other than course readings and classroom discussions. Students astutely observe what is going on around them. They draw inferences from the behavior of deans, faculty, staff, and fellow students. In short, they absorb and internalize the law school culture—either a culture based on aspirational standards of conduct, principled decision-making, and a commitment to public service, or a culture based on lowest-common-denominator expectations, ad hoc decision-making, and a focus on personal preferences. The latter culture is easy on students, but leaves them dispirited. The former is more rigorous, but it energizes students and prepares them for lives of fulfillment.

24. See PHILIPPA STRUM, LOUIS D. BRANDEIS: JUSTICE FOR THE PEOPLE 40-41 (1984).

25. *Id.*

26. Deborah L. Rhode, President's Message, *Professional Education and Professional Values*, AALS NEWSLETTER (American Association of Law Schools, Washington, D.C.), Apr. 1998, at 1.

27. John Sexton, President's Message, *Restoring the Notion that Lawyers are Society's Conscience*, AALS NEWSLETTER (American Association of Law Schools, Washington, D.C.), Apr. 1997, at 1.

28. MACCRATE REPORT, *supra* note 4, at 333.

29. The authenticity of a universal public service program is buttressed by a faculty workload system that provides for each faculty member to render service to the community, to the profession, or to national legal education, beyond the normal expectations of scholarship, teaching, and service to the law school or university.